

REMARKS

Summary Of The Office Action & Formalities

Claims 1-16 are all the claims pending in the application. By this Amendment, Applicant is canceling claim 11 and amending claims 1 and 16. No new matter is added.

Claim 16 is rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at page 2 of the Office Action. Applicant is amending the claim to overcome this rejection.

The prior art and double patenting rejections are summarized as follows:

1. Claims 1-3, 9 and 14-16 are rejected under 35 U.S.C. § 102(e) as being anticipated by Blake (USP 6,280,449).

2. Claims 1-4, 6 and 9-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2, 6, 7 and 15 of copending Application No. 10/471,888.

3. Claim 5 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 10/471,888 ('888 herein) in view of Blake (USP 6,280,449).

4. Claims 7 and 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/471,888 ('888 herein) in view of Figueroa et al. (USP 5,873,879) and Lane (USP 5,964,736).

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 102

1. Claims 1-3, 9 And 14-16 In View Of Blake (USP 6,280,449).

In rejecting claims 1-3, 9 and 14-16 in view of Blake (USP 6,280,449), the grounds of rejection state:

Blake discloses a device for injecting a lens including a single piece or “individual” syringe body assembled from a cylindrical portion 12, a conical intermediate portion and an injection endpiece including a piston 14 wherein an injection end of the piston has a plurality of plastic blades or “fingers” or “elongate members” 16 that flex toward each other and “occupy practically the entire section of the body” (Figure 7, col. 11, lines 48-67 and col. 12, lines 1-67 and col. 13, lines 1-14). See marked up Figure 7 from Blake below.

Office Action at pages 2-3.

Applicant has amended claims 1 and 16 by adding the subject matter of claim 11, which specifies that at least one of the plurality of fingers directly contact the lens to simultaneously push the lens.

Blake (USP 6,280,449) discloses an insertor device in which is loaded an immobilized sleeve containing a lens. A piston provided with blades is used to advance the lens through the flexible sleeve. The blades advance the lens by squeezing the flexible sleeve. Consequently, blades according to teachings of Blake never act directly on the lens.

Therefore, amended claim 1 is novel and non-obvious.

Indeed, this technical feature taken in combination with the fact that the fingers are brought together to form a solid cylinder which occupies practically the entire section of an end of the body does not allow the use of a loading chamber for housing the lens.

Accordingly, the problem which is solved by the present invention is to simplify the assembly and the operation of a device for injecting an intraocular lens.

Therefore, the solution proposed by amended claim 1 is clearly not taught or suggested by Blake, because Blake discloses the necessary use of a flexible sleeve in the insertor device. In other words, a separate system specifically provided to contain the lens is necessarily implemented according to Blake.

In view of the foregoing differences, the Examiner is kindly requested to reconsider and withdraw the prior art rejection of claims 1 and 16 and the dependent claims.

Provisional Double Patenting Rejections

Concerning the double patenting over copending application No. 10/471,888, Applicant traverses as follows.

While claim 1 of the '888 application covers a lens injecting device, there is an important structure difference from the device claimed in the present application. In particular, the pending claims of the '888 application require that, "when said plunger reaches the discharge portion, said plunger has a profile at its end in contact with the lens, said profile defining at least one space adapted to receive said at least one upper haptic of said lens".

On the other hand, in the present application, there is no space between the strands (or fingers) when the plunger reaches the discharge portion (see fig. 5E, 6E, 7E, and 8E). Claim 1 requires that the fingers, after flexing towards another, are brought together to form a cylinder that occupies practically the entire section of an end of the body. Claim 1 of the present application, thus, does not cover the device covered by copending application No. 10/471,888,

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and vice-versa. Likewise, claim 16 differs from the claims of the '888 application. Therefore, there is no double patenting issue.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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